IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 16387 of 2004

Between:

S. Subhashini, W/o. Prakash Naidu, F.P. shop dealer
D.No.3-28, No.33 Venkatapuram, H/o. Pachanapalle Village, Chittoor Mandal, Chittoor District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Chittoor, Chittoor District.
2 The Mandal Revenue Officer, Chittoor, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of " Writ of Mandamus" declaring the impugned proceedings of the 1st respondent dated 09-09-2004 in Roc.B/2574/2004 as illegal, unjust, violative of principles of natural justice, arbitrary, unfair, malafide, without jurisdiction and contrary to law and accordingly set-aside the same.

Counsel for the Petitioner: MR.S.V.MUNI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following**:**

ORDER:

Petitioner is an authorised dealer in respect of the Fair Price Shop of Venkatapuram, Pachannapalle village, Chittoor Mandal and District. Her authorisation has been suspended by the Revenue Divisional Officer, Chittoor District, by order dated 09.09.2004, pending enquiry into the alleged irregularities in distribution of essential commodities. This writ petition is filed aggrieved by the said order.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

The learned counsel for the petitioner vehemently contends that the order impugned which was passed without any notice to the petitioner and without conducting any enquiry into the alleged irregularities, is arbitrary and illegal and in violation of the principles of natural justice. The learned counsel further contended that all the allegations made against the petitioner are false and baseless and that impugned order is only due to political pressure and for extraneous reasons. He contends that the impugned order, which is solely based on the representation made by the local M.L.A. is

malafide and liable to be set aside in limini

The learned counsel has placed reliance upon a decision of this Court in M.SADASIVA SEKHAR v DISTRICT COLLECTOR, KURNOOL AND OTHERS and contended that without affording an opportunity of being heard, the Revenue Divisional Officer ought not to have passed the impugned order.

The order impugned, on the face of it, is only an order of suspension, pending enquiry into the alleged irregularities. Though the order refers to a representation of the M.L.A., Vepanjeri, it is clear that on the basis of the same, the CSDT (Enforcement), Chittoor, has inspected the petitioner's shop on 23.08.2004 and having noticed certain irregularities, submitted a report and in pursuance thereof the impugned order has been passed, pending enquiry. The impugned order being only an order of suspension, pending enquiry into the alleged irregularities, the contention that it is in violation of the principles of natural justice since no opportunity was afforded to the petitioner to rebut the allegations cannot be accepted. The Revenue Divisional Officer, who is the competent authority will conduct due enquiry after affording due opportunity to the petitioner and it is always open to him to suspend the authorisation pending such enquiry. Hence, the contention of the learned counsel is without any substance. The decision relied on by the learned counsel for the petitioner referred to above, in which this Court was dealing with an order of cancellation of authorisation, does not apply to the case on hand.

Hence the relief as prayed for cannot be granted. Moreover, against the impugned order of suspension an efficacious alternative remedy is available under the Statute by way of appeal to the Joint Collector. Without exhausting the said alternative remedy, this writ petition cannot be maintained.

Accordingly, without expressing any opinion on the merits of the case, the writ petition is disposed of granting leave and liberty to the petitioner to work out the remedy available under the Statute. In the

event of filing of such appeal, the same may be considered and appropriate orders be passed in accordance with law. No costs.

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14.09.2004

Note: Furnish CC in two days

(b/o)

VGB

To

1 The Revenue Divisional Officer, Chittoor, Chittoor District.
2 The Mandal Revenue Officer, Chittoor, Chittoor District.

3 2CCs to the Government Pleader for Civil Supplies, High Court

Buildings, Hyderabad (OUT)

4 2CD copies